FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5254 OF 2005

Office notes, office Memoranda of appearances, Court's orders or directions & Registrar's orders.	Coram, : Court's or Judge's Orders

Mr. P.D. Dalvi for the petitioner

CORAM: SMT. RANJANA DESAI, J.
30/9/05

P.C.:-

On 17/8/05 after hearing the learned counsel for the petitioner and after considering the merits of the case I had observed that the petition will have to berejected. However, I had observed that there was substance in the contention of the learned counsel for the petitioner that till such time as the suit is disposed of, respondent 2 should not construct on the portion of the land which is in his possession. He had drawn my attention to the order of the lower appellate court ordering status quo. On that day only on this aspect I had ordered that notice be issued to the respondent. The notice was made

returnable on 1/9/05. Advocate's notice was also permitted. The order of status quo was extended till 1/9/05.

2. As directed by me the learned counsel for the petitioner had sent advocate's notice to the respondent. The envelope containing notice has returned with the endorsement that the respondent has left the house and his address is not available.

3. The petitioner has filed affidavit stating that his advocate has sent a notice by RPAD to the respondent which is returned with the remark that the respondent has left the place. It is further stated that in fact the respondent is staying at the same address and that a complaint is lodged against the concerned postman at the head post office at Kolhapur by the petitioner. It is addressed to the Head Post Master, Head Post Office, Kolhapur.

4. Respondent is the brother of

the petitioner and both are staying in the same village. In fact the dispute is about house property of both, the petitioner and the respondent situated in the same village. It is obvious, therefore, that the respondent is avoiding service of the notice. Hence the following order:

(a) Writ Petition is rejected.

(b) R.C.S. No. 82/03 pending on the file of Civil Judge, Junior Division, Peth Vadagaon is expedited. The trial court is directed to hear and dispose of the same within one year from the date of receipt of this order by him. During the pendency of the suit the parties shall maintain status quo as of today.

(c) The petitioner shall communicate this order to the respondent.

(d) Writ petition is disposed of.

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